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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION**

In re:

IRONCLAD PERFORMANCE WEAR
CORPORATION, a California corporation,

Debtor and Debtor in Possession.

In re:

**IRONCLAD PERFORMANCE WEAR
CORPORATION, a Nevada corporation,**

Debtor and Debtor in Possession.

Affects both Debtors

Affects Ironclad Performance Wear Corporation, a California corporation only

Affects Ironclad Performance Wear Corporation, a Nevada corporation only

Lead Case No.: 1:17-bk-12408-MB

Jointly administered with:

1:17-bk-12409-MB

Chapter 11 Cases

**DEBTORS' REPLY TO LIMITED
OBJECTION OF JEFFREY CORDES AND
WILLIAM M. AISENBERG TO THE
DEBTORS' SALE MOTION**

DATE: October 30, 2017

TIME: 10:00 a.m.

PLACE: Courtroom "303"
21041 Burbank Blvd.
Woodland Hills, CA

1 Ironclad Performance Wear Corporation, a California corporation, and Ironclad
2 Performance Wear Corporation, a Nevada corporation (collectively, the “Debtors”), the debtors
3 and debtors-in-possession in the above-captioned Chapter 11 bankruptcy cases, hereby file their
4 Reply to that certain Limited Objection [Docket No. 131] filed by Jeffrey Cordes and William
5 M. Aisenberg (collectively, the “Objecting Parties”) to the Debtors’ motion (“Motion”) [Docket
6 Number 95] seeking an order of the Court approving the Debtors’ sale of substantially all of their
7 assets.

8 1. As a preliminary matter, the Debtors dispute any and all claims asserted by the
9 Objecting Parties against the Debtors’ estates, and reserve all of their rights to, object to the
10 Objecting Parties’ claims, and assert claims against the Objecting Parties.¹ Additionally, the
11 Motion itself does not seek any relief related to the Objecting Parties’ claims, and therefore the
12 Limited Objection is not actually responsive to the Motion. Finally, the Limited Objection
13 should be overruled for the following reasons.

14 2. First, the Limited Objection was filed after the deadline for the Objecting Parties
15 to file oppositions to the Motion. As such, it is untimely and may be overruled on that basis
16 alone.

17 3. Second, pursuant to the Limited Objection, the Objecting Parties request various
18 forms of relief from this Court, none of which should be, or could be, granted to the Objecting
19 Parties.²

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22 ¹ As the Debtors have previously discussed, it was discovered in early 2017 that under the
23 management of the Debtors by the Objecting Parties, the Debtors failed to provide materially
24 complete and correct financial statements as required under their loan documents to their primary
25 secured lender for the fiscal years ended December 31, 2015 and 2016, and for the fiscal quarters
ended March 31, June 30, September 30, 2016 and March 31, 2017. As a result of this
discovery, the Objecting Parties were terminated.

26 ² Oddly, the Objecting Parties refer to themselves in the Limited Objection as “Movants” (see
27 Limited Objection, page 1, line 25). To the extent the untimely Limited Objection is intended to
28 serve as a motion, it has not been properly noticed and is not scheduled to be heard on October
30, 2017.

1 4. Specifically, the Objecting Parties request that the Sale Order include language
2 providing as follows, none of which should be included in the Sale Order:

3 a. That the Debtors' proposed sale, if approved, shall not affect Movants'
4 rights to pursue their claims against the Debtors under the Cordes Employment
5 Agreement and the Aisenberg Employment Agreement.

6 **Debtors' Response:** There is no basis for inclusion of any such language
7 in the Sale Order. The Motion does not involve the Objecting Parties' claims, nor have
8 the Debtors requested any determination with respect to the Objecting Parties' claims.
9 The Debtors have not requested any determination as to the nature of any agreements
10 with the Objecting Parties, the enforceability of such agreements, or whether such
11 agreements are or are not executory. There is no basis to include in the Sale Order any
12 language that is extraneous to the relief being requested in the Motion, and the Limited
13 Objection is not itself a motion pursuant to which affirmative relief may be granted.

14 b. That the Debtors' proposed sale, if approved, shall not affect the Objecting
15 Parties' rights as insured parties under an insurance policy to pursue any insurance
16 proceeds.

17 **Debtors' Response:** There is no basis for inclusion of any such language
18 in the Sale Order. The Motion does not involve any relief being requested under any
19 insurance policy, nor have the Debtors requested any determination with respect to any
20 insurance policy. There is no basis to include in the Sale Order any language that is
21 extraneous to the relief being requested in the Motion, and the Limited Objection is not
22 itself a motion pursuant to which affirmative relief may be granted.

23 c. That the Debtors are prohibited from terminating or otherwise allowing
24 the insurance policy to lapse.

25 **Debtors' Response:** There is no basis to prohibit the Debtors from taking
26 action with respect to any of the Debtors' insurance policies. The relief requested by the
27 Objecting Parties amounts to a request for a restraining order against the Debtors without
28

1 complying with any of the requirements or procedures for requesting, and obtaining,
2 restraining orders.

3 d. That the Objecting Parties' purported employment agreements are not
4 "executory contracts" and are not among those Designated Contracts being assumed by
5 the Debtors and assigned to the purchaser.

6 **Debtors' Response:** There is no basis for any such determination because
7 no such determination was ever requested in the Sale Motion. Moreover, it is
8 procedurally improper to request such declaratory relief in an untimely "Limited
9 Objection" to the Motion. Finally, it is self-evident that these purported agreements are
10 not included in the Motion.

11 e. That any language in the Sale Order establishing that a party to an
12 executory contract has not incurred any pecuniary loss is inapplicable to the Objecting
13 Parties' purported employment agreements.

14 **Debtors' Response:** There is no basis for inclusion of any such language
15 in the Sale Order because the Motion itself does not apply to the purported agreements at
16 issue. The Motion does not involve the Objecting Parties' claims, nor have the Debtors
17 requested any determination with respect to the Objecting Parties' claims. There is no
18 basis to include in the Sale Order any language that is extraneous to the relief being
19 requested in the Motion, and the Limited Objection is not itself a motion pursuant to
20 which affirmative relief may be granted.

21 5. For the reasons set forth herein, the Limited Objection should be overruled.

22 Dated: October 27, 2017

IRONCLAD PERFORMANCE WEAR CORPORATION

23 By: /s/ Krikor J. Meshefjian
24 RON BENDER
25 MONICA Y. KIM
26 KRIKOR J. MESHEFEJIAN
27 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
28 Attorneys for Debtors and Debtors in Possession

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled **DEBTORS' REPLY TO LIMITED OBJECTION OF JEFFREY CORDES AND WILLIAM M. AISENBERG TO THE DEBTORS' SALE MOTION** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 27, 2017**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Shiva D Beck sbeck@gardere.com, jcharrison@gardere.com
- Ron Bender rb@lnbyb.com
- Cathrine M Castaldi ccastaldi@brownrudnick.com
- Russell Clementson russell.clementson@usdoj.gov
- Aaron S Craig acraig@kslaw.com, lperry@kslaw.com
- Matthew A Gold courts@argopartners.net
- Monica Y Kim myk@lnbrb.com, myk@ecf.inforuptcy.com
- Krikor J Meshefesian kjm@lnbrb.com
- Tania M Moyron tania.moyron@dentons.com, chris.omeara@dentons.com
- S Margaux Ross margaux.ross@usdoj.gov
- United States Trustee (SV) ustpregion16.wh.ecf@usdoj.gov
- Sharon Z. Weiss sharon.weiss@bryancave.com, raul.morales@bryancave.com

2. SERVED BY UNITED STATES MAIL: On **October 27, 2017**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **October 27, 2017**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served via Attorney Service

Hon. Martin R. Barash
United States Bankruptcy Court
21041 Burbank Boulevard, Suite 342
Woodland Hills, CA 91367

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

October 27, 2017 Stephanie Reichert /s/ Stephanie Reichert
Date Type Name Signature